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THE CONVERSATION

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More powers for Scotland: rushed timetable does the whole of the UK a disservice

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Lord Smith of Kelvin, a man in a hurry Danny Lawson/PA

The group charged with delivering more devolution to Scotland is to draw up the most significant programme of constitutional change for the UK since 1998 this November. Already the period when citizens could submit their views has passed: the Smith Commission's deadline was 5pm on October 31. Such a rapid process runs counter to both the due diligence needed before deciding to restructure the UK tax (and possibly welfare) systems so radically; and the due process which ought to accompany such a seminal constitutional development.

The referendum campaign was a remarkable period of citizen empowerment, resulting in a turnout of almost 85%. The Smith Commission process, by contrast, bears all the hallmarks of a return to elite-led constitutional change. It is deeply ironic that the impetus for such a rapid and party-led process should be the independence referendum itself. It was set in motion only as September 18 approached and the polls seemed to tighten, when the main unionist parties issued "the vow" promising more powers for the Scottish parliament and a firm timetable for change.

The timetable is astonishing. The day after the referendum Prime Minister David Cameron announced that Lord Smith of Kelvin would oversee a process to take forward these commitments. The five main parties (Conservative, Greens, Labour, Liberal Democrats and Scottish National Party) had to submit their views by October 10. The commission will issue recommendations by November 30, with a view to a draft bill in the new year. If Solomon Grundy could do constitutional change, this is what it would look like.

Getting it right

My first objections are less of principle and more of prudence. It is not enough to make policy decisions and then complete an assessment of how these can be carried out later. You need to ascertain the operational difficulties in advance before you can make a decision on the best course of action. The devolution of tax and welfare within such a highly integrated state must be tested for its impact both on Scotland and on the rest of the UK.

The Smith timetable is also odd given that we are heading towards a UK general election. Of course the parties feel the need to move fast for political

reasons. But the general election provides an entirely credible reason to set deliberation back until next year. By any measure it is better to do things correctly than to do them quickly.

And then there is the issue of due process. As a point of democratic principle fundamental constitutional change should be open, inclusive and deliberative if the people of Scotland, and more pertinently the people of the rest of the UK, are to consider it legitimate.

Ignoring Britain

The bigger picture is of course the UK constitution as a whole. The Smith Commission is concerned only with additional powers for the Scottish parliament. But is it feasible to address this issue alone without also considering the knock-on consequences for the entire country? For example one element of The Vow was to make the Scottish parliament “permanent”. But how can such a constitutional guarantee be made without significant changes to parliamentary sovereignty, the very basis of the British constitution?

The West Lothian question has already re-appeared as a counterpoint to more powers for Scotland. Should decisions be taken on radical tax powers for Scotland without advance notice of whether, and if so how, these powers may lead to a significant loss of influence for Scotland at Westminster? We also don't know if this process might prompt a strong campaign for an English parliament within the UK system, or further devolution for Wales and Northern Ireland.

It might mean a re-worked system of intergovernmental relations, or even some kind of quasi-federal system, possibly involving realigning the House of Lords as a chamber of the nations and regions of the UK – something Ed Miliband first raised at the Labour Party conference in September 2014. Scots should know whether the price of more powers will be a radically new constitutional structure within which the position of Scotland is in some ways marginalised. There are also potential issues of compatibility with EU law (something Smith says the commission will address).



Trinity Mirror

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Miliband foresees reform of the House of Lords as part of constitutional change Danny Lawson/PA

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What chance real deliberation?

It is not impossible that the Smith Commission will deliberate on a genuinely constructive and non-party basis, but the fact that its membership is open only to political parties and the limited time frame makes this very difficult.

Indeed, the proposals submitted to Smith are largely the well-established positions of the political parties and not the result of any independent or cross-party review. There will of course be give and take in a process of inter-party bartering, but is this the type of democratic deliberation that post-referendum Scotland aspires to?

All of this suggests the need for restraint. The two governments should set up a much more inclusive and wider ranging review over a much longer period of time. It should be conducted in a more independently, relatively free from party political horse-trading, taking the views of citizens and civil society seriously.

Why not see the referendum as the first step in a new endorsement of popular politics? The post-referendum environment offers the chance to re-engage with a public which is better educated about and enthused by constitutional politics than ever before. To explore such avenues would be no retreat from the democratic will of the people. On the contrary, such an engagement would help fulfil the democratic promise of the referendum.